

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JUDY DILLON and LARRY DILLON,

Plaintiffs,

v.

Civil Action No. _____

NCO FINANCIAL SYSTEMS INC.,

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. This is an action for actual and statutory damages brought in response to Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION AND VENUE

2. Jurisdiction of this court arises under 15 U.S.C. §1692k(d), 28 U.S.C. § 1331, and 28 U.S.C. § 1337.
3. Venue is proper in this district under 28 U.S.C. §1391(b) in that the Defendant transacts business here and the conduct complained of occurred here.

III. PARTIES

4. Plaintiff, Judy Dillon, is a natural person residing in the County of Genesee and State of New York and is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).
5. Plaintiff, Larry Dillon, is a natural person residing in the County of Genesee and State of New York and is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).
6. Defendant, NCO Financial Systems Inc., is a corporation organized and existing under the laws of the State of New York and is a "debt collector" as that term is defined by 15 U.S.C. §1692a(6).
7. Defendant regularly attempts to collect debts alleged to be due another.

8. The acts of the Defendant alleged hereinafter were performed by its employees acting within the scope of their actual or apparent authority.
9. All references to “Defendant” herein shall mean the Defendant or an employee of the Defendant.

IV. FACTUAL ALLEGATIONS

10. That either Plaintiff Larry Dillon or Judy Dillon incurred a debt to Capital One. This debt will be referred to as “the subject debt.”
11. That the subject debt arose out of a transaction in which money, services or property, which was the subject of the transaction, was primarily for personal, family and/or household purposes. As such, said debt is a “debt” as that term is defined by 15 U.S.C. §1692a(5).
12. That upon information and belief Defendant was either employed by Capital One to collect on the subject debt or was assigned the account from the previous owner of the account.
13. That in or about August 2012, Defendant began calling the Plaintiffs on their home phone in an attempt to collect the alleged subject debt.
14. That during the first few of these calls, Plaintiffs requested that the Defendant stop calling as they made payment arrangements with Capital One
15. That despite Plaintiffs’ request to stop calling, Defendant continued to call the Plaintiffs from August 2012 through October 2012 multiple times per week, often multiple times per day, in an attempt to collect on the subject debt. Specifically Defendant called Plaintiffs at least of 61 times from August 8, 2012 through August 31, 2012, at least 18 times from September 1 through September 9, 2012, and at least 26 times from October 1, 2012 through October 8, 2012.
16. That as a result of Defendant’s acts Plaintiffs became nervous, upset, anxious, and suffered from emotional distress.

V. CAUSE OF ACTION

17. Plaintiff repeats, re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 16 above.
18. The conduct of Defendant as described in this complaint violated the Fair Debt Collection Practices Act (15 U.S.C. §1692 et seq.) as follows:

- A. Defendant violated 15 U.S.C. §1692d and 15 U.S.C. §1692d(5) by repeatedly causing Plaintiff's telephone to ring with the intent to annoy, abuse or harass.
- B. Defendant violated 15 U.S.C. §1692c(a)(1) by repeatedly calling the Plaintiff despite their requesting them to not call them.

19. That as a result of the Defendant's FDCPA violations as alleged herein, Plaintiff became nervous, upset, anxious and suffered from emotional distress.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against the Defendant for:

- (a) Actual damages;
- (b) Statutory damages for pursuant to 15 U.S.C. § 1692k.
- (c) Costs, disbursements and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k.
- (d) For such other and further relief as may be just and proper.

VI. JURY DEMAND

Please take notice that Plaintiff demands trial by jury in this action.

Dated: March 27, 2013

/s/ Seth J. Andrews
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